

EFS

Confirmation No.: 1032

Amendment dated July 13, 2009 in Response to  
(Non-Final) Office Action dated April 13, 2009  
Dkt. No. 34294/3

**REMARKS**

Claims 1, 4, 6 and 8-18 are pending. By this Amendment, claims 1, 8 and 15-18 are amended.

Reconsideration based on the following remarks is respectfully requested.

The Office Action rejects claims 1, 4, 6 and 8-18 under 35 U.S.C. 101 as being directed to non-statutory subject matter. The claims are amended to recite the use of "broadcast media" for establishing the claimed contest, so that the claims are now tied to a "particular machines or apparatus". Support for this amendment can be found in the present specification at least at paragraph [0014].

Withdrawal of the rejection under 35 U.S.C. 101 is respectfully requested.

The Office Action rejects claims 1, 4, 6 and 8-18 under 35 U.S.C. 102(b) over U.S. Patent No. 5,271,626 to Llenas. This rejection is respectfully traversed.

Llenas does not disclose or even suggest a method of advertising within a media broadcast program which features regular program content and content related to commercials, including, inter alia, establishing a contest whereby listeners of said program may become participants in said contest by following procedures of said contest, said contest including the broadcast of clues from time to time at least partially during broadcast of one of said commercials, with the contest requirement that a participant respond to said at least one broadcasted clue and follow the required procedure of said contest, broadcasting at least one set of regular program content during said program, broadcasting at least one commercial during said program as part

EFS

Confirmation No.: 1032

Amendment dated July 13, 2009 in Response to  
(Non-Final) Office Action dated April 13, 2009  
Dkt. No. 34294/3

of the content related to commercials, broadcasting at least one clue at least partially during said at least one commercial as part of the content related to commercials, and providing a specified award to each participant whose response to said clue satisfied the contest requirements to win said award, as recited in claim 1, and as similarly recited in claims 8 and 15-18.

The Llenas patent discloses a television game for maintaining viewership during television programs and commercials in which game clues are randomly inserted into "black spaces" between commercials and television programs. See FIG. 4b and column 4, lines 45-54 of Llenas. The Examiner specifically argues that Llenas discloses providing clues at least partially during a commercial in the fade-to-black periods at the end of many commercials. However, the fade-to-black periods do not occur during a commercial, so that any inserted clues will not be shown until after the commercial has already played. This does not encourage a viewer to watch the commercials, as in the present invention, but instead allows the viewer to ignore the commercials and only pay attention to the breaks between the commercials to obtain any contest clues.

For at least these reasons, it is respectfully submitted that claims 1, 8 and 15-18 are allowable. The dependent claims are also allowable for the reasons discussed as well as for the additional features they recite. Withdrawal of the rejections of the claims and allowance of the application is respectfully requested.

EFS

Confirmation No.: 1032

Amendment dated July 13, 2009 in Response to  
(Non-Final) Office Action dated April 13, 2009  
Dkt. No. 34294/3

If any fees are required to preserve the pendency of the subject application, please debit Deposit Account No. 01-1785. Likewise, if there is overpayment, please credit the same account.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP  
Attorneys for Applicants  
90 Park Avenue  
New York, NY 10016  
(212) 336-8000

Dated: New York, New York  
July 13, 2009

By: /Benjamin M. Halpern/  
Benjamin M. Halpern  
Registration No.: 46,494